



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on **June 10, 2003**

NOTICE OF ACTION TAKEN – DOCKETS	OST-2000-6816	OST-2000-8270
	OST-2001-10174	OST-2001-10438
	OST-2001-10457	OST-2001-10691
	OST-2002-11478	OST-2000-7292
	OST-2000-7390	OST-2000-7022

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applications of **Delta Air Lines, Inc.** for:

XX Renewal of exemptions for two years under 49 U.S.C. §40109 to provide the following service:

OST-2000-6816, filed May 14, 2003: Scheduled foreign air transportation of persons, property, and mail between the terminal point Chicago, Illinois, and the terminal point Mexico City, Mexico. Delta provides year-round service on this route pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Delta places its code on flights operated by Aeromexico in the market.

OST-2000-8270, filed May 14, 2003: Scheduled foreign air transportation of persons, property, and mail between the terminal point Ontario, California, and the terminal point Guadalajara, Mexico. Delta provides year-round service on this route pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Delta places its code on flights operated by Aeromexico in the market.

OST-2001-10174, filed May 14, 2003: Scheduled foreign air transportation of persons, property, and mail between (1) the terminal point Los Angeles, California, and the terminal point Acapulco, Mexico; and (2) the terminal point New York, New York, and the terminal point Monterrey, Mexico. Delta provides year-round service on these routes pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Delta places its code on flights operated by Aeromexico in the markets.

OST-2001-10438, filed May 14, 2003: Scheduled foreign air transportation of persons, property, and mail between (1) the terminal point Salt Lake City, Utah, and the terminal point Mexico City, Mexico; and (2) the terminal point Salt Lake City, Utah, and the terminal point Hermosillo, Mexico. Delta provides year-round service on these routes pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Delta places its code on flights operated by Aeromexico in the markets.

OST-2001-10457, filed May 14, 2003: Scheduled foreign air transportation of persons, property, and mail between the terminal point Cincinnati, Ohio, and the terminal point Cancun, Mexico. Delta provides service on this route pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Aeromexico places its code on flights operated by Delta in the market.¹

OST-2001-10691, filed May 14, 2003: Scheduled foreign air transportation of persons, property, and mail between (1) the terminal point New York, New York, and the terminal point Acapulco, Mexico; and (2) the terminal point New York, New York, and the terminal point Puerto Vallarta, Mexico. Delta provides year-round service on these routes pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Delta places its code on flights operated by Aeromexico in the markets.

OST-2002-11478, filed May 14, 2003: Scheduled foreign air transportation of persons, property, and mail between the terminal point Ontario, California, and the terminal point Hermosillo, Mexico. Delta provides

¹ Delta has requested flexibility to use its authority in the Cincinnati-Cancun market on a year-round or seasonal basis, as dictated by market circumstances.

year-round service on this route pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico) and Aerolitoral, S.A., de C.V. (Aerolitoral), whereby Delta places its code on flights operated by both Aeromexico and Aerolitoral in the market.

OST-2000-7292, filed April 5, 2002: Scheduled foreign air transportation of persons, property, and mail between (1) the terminal point Atlanta, Georgia, and the terminal point Merida, Mexico.² Delta provides year-round service on this route pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Delta places its code on flights operated by Aeromexico in the market.

OST-2000-7390, filed April 5, 2002: Scheduled foreign air transportation of persons, property, and mail between (1) the terminal point Atlanta, Georgia, and the terminal point Leon, Mexico; and (2) the terminal point Atlanta, Georgia, and the terminal point San Jose del Cabo, Mexico.³ Delta provides service on this route pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Aeromexico places its code on flights operated by Delta in the markets.

OST-2000-7022, filed February 1, 2002: Scheduled foreign air transportation of persons, property, and mail between the terminal point Las Vegas, Nevada, and the terminal point Hermosillo, Mexico. Delta provides year-round service on this route pursuant to a code-share arrangement with Aerovias de Mexico, S.A., de C.V. (Aeromexico), whereby Aeromexico places its code on flights operated by Delta in the market.

For all of the captioned applications, Delta requests authority to combine services operated under these exemptions with all other Delta services authorized by existing certificates and exemptions, to the extent permitted by applicable international agreements. Delta also requests that all of the authorities be renewed for a period of two years with a common expiration date.

Applicant rep: Robert E. Cohn (202) 663-8060 DOT Analyst: Linda L. Lundell (202) 366-2336

DISPOSITION

XX Granted (subject to conditions, see below)

The action above was effective when taken: June 10, 2003, through June 10, 2005.

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX Authority granted is consistent with the aviation agreement between the United States and Mexico.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificates of public convenience and necessity

XX Standard Exemption Conditions (attached)

Conditions: The U.S.-Mexico transborder exemption authority granted to Delta in the captioned dockets is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. With the exception of the U.S.-Mexico exemption authority granted in Dockets OST-2001-10457, OST-2000-7390, and OST-2000-7022, the U.S.-Mexico exemption authority granted is limited to services provided on a code-share basis only.

The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority granted should be construed as conferring

² Delta does not seek to renew the Los Angeles-Durango exemption authority originally granted in this docket (see Notice of Action Taken dated June 20, 2000).

³ Delta provides seasonal service in the Atlanta-San Jose del Cabo market.

upon Delta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any such carrier to use the limited-entry route rights that are included in Delta's authority by virtue of the route integration authority granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The code-share operations conducted under this authorization are subject to the following conditions:

- (a) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendment to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected. The operating carrier shall not permit the code of its U.S. code-share partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition; and
- (b) The authority granted here is specifically conditioned so that neither Delta nor Aeromexico/Aerolitoral shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the application was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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http://dms.dot.gov/reports_aviation.asp

U.S. CARRIER
Standard Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations and with all applicable U.S. Government requirements concerning security;¹ and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

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¹ To assure compliance with all applicable U.S. Government requirements concerning security, the holder should, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.